

O'NEILL & BORGES LLC

AMERICAN INTERNATIONAL PLAZA
250 MUÑOZ RIVERA AVENUE, STE 800
SAN JUAN, PUERTO RICO 00918-1813

JERRY LUCAS MARRERO
MEMBER
WRITER'S DIRECT LINE
787-282-5729

TELEPHONE: (787) 764-8181
TELECOPIER: (787) 753-8944
JERRY.MARRERO@ONEILLBORGES.COM

May 4, 2015

BY CERTIFIED MAIL – RETURN
RECEIPT NO. 7014-2120-0001-4793-3048

Regional Freedom of Information Officer
U.S. Environmental Protection Agency
Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866

Re: Station Managers of Puerto Rico, Inc.
Former Guayanilla Fuel Terminal
FOIA Request – Follow up

Dear Officer:

This is in furtherance of Station Managers of Puerto Rico, Inc.'s (owner of the Former Shell Guayanilla Fuel Terminal, "SMPRI") supplemental Freedom of Information Act ("FOIA")¹ request for a copy of the document titled *Environmental Impact Study Investigation for the Modular Incineration System, Weston, 1989* (the "Weston Study") made on February 3, 2015 (the "FOIA Request"). See, Copy of the February 3, 2015 Letter attached as **Exhibit 1**. Pursuant to 40 C.F.R. Section 2.104, SMPRI should have received a response to its request within twenty (20) days of receipt. See, also, *NLRB v. Sear, Roebuck & Co.*, 421 U.S. 132 (1975). However, as of today, we have not received a copy of the Weston Report.

In addition, as a follow up to the FOIA Request, SMPRI submitted an electronic FOIA request (Tracking Number EPA-R2-2015-004230) on February 16, 2015 (the "Electronic Request"). The Electronic Request also sought to obtain a copy of the Weston Report. SMPRI followed up on its Electronic Requests via e-mail on March 31, 2015 and on April 30, 2015. See, Copy of electronic communications with the United States Environmental Protection Agency ("USEPA") regarding the Electronic Request attached as **Exhibit 2**. As with the FOIA Request, even though it has been more than sixty (60) days since the Electronic Request was submitted, SMPRI has yet to receive a copy of the Weston Report.

¹ 5 U.S.C. § 552, as amended by the OPEN Government Act of 2007, Pub. L. No. 110-75.

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Re: Freedom of Information Act Request
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Accordingly, SMPRI respectfully requests that its request for the Weston Report is promptly addressed. Kindly let us know if there are any fees applicable to obtaining a copy of the document being requested – so we can coordinate its prompt payment.

Please contact me at your convenience if you have any questions regarding this matter.

Cordially,



Jerry Lucas Marrero

Enclosures

c: Mr. José C. Font, EPA-CEPD
Mr. Eduardo R. González, EPA-CEPD
Héctor L. Vélez-Cruz, Esq., EPA-CEPD
Carolina Jordán-García, Esq., EPA-CEPD
Mr. Scott David
Mr. Deny Gómez
Pierre Espejo, Esq.

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JERRY.MARRERO@ONEILLBORGES.COM

February 3, 2015

BY CERTIFIED MAIL – RETURN RECEIPT
REQUESTED NO. 7012-3050-0001-9361-2257
AND EMAIL: r2foia@epa.gov

Regional Freedom of Information Officer
U.S. Environmental Protection Agency
Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866

Re: Freedom of Information Act Request

Dear Officer:

Further to our request of October 10, 2014, our client, Station Managers of Puerto Rico, Inc. (owner of the Former Shell Guayanilla Fuel Terminal, "SMPRI"), hereby respectfully requests a copy of the document titled *Environmental Impact Study Investigation for the Modular Incineration System, Weston, 1989* (the "Weston Study"). The Weston Study is referenced in multiple documents and reports provided by the U.S. Environmental Protection Agency ("EPA") on November 13, 2014, in response to SMPRI's request made pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended by the OPEN Government Act of 2007, Pub. L. No. 110-75.

As stated in SMPRI's request of October 10, 2014, SMPRI received a letter from the Director of the U.S. Environmental Protection Agency, Caribbean Environmental Protection Division ("EPA-CEPD"), indicating that the EPA had determined that it could "not rule out" SMPRI as a potential responsible party for the light non-aqueous phase liquid ("LNAPL") found beneath the Former Shell Guayanilla Fuel Terminal (the "Facility"). The EPA-CEPD recommended that SMPRI submit a Corrective Measures Study or Remedial Action Plan to address the LNAPL in the groundwater. As a result, via the aforementioned FOIA request, and prior to presenting a formal response to the EPA-CEPD's request, SMPRI requested a copy of the files and reports that EPA-CEPD used as a basis for concluding that it could "not rule out" SMPRI a potential responsible party.

It was while reviewing the documents provided by EPA in response to the FOIA request that SMPRI became aware of the Weston Study. Consequently, SMPRI now formally requests, pursuant to FOIA, as amended, a copy of the Weston Study. We understand that, pursuant to 40

O'NEILL & BORGES LLC

Regional Freedom of Information Officer
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Page 2

C.F.R. Section 2.104, SMPRI ought to receive a copy of the Weston Study within twenty (20) days of receipt of this request. See, also, *NLRB v. Sear, Roebuck & Co.*, 421 U.S. 132 (1975).

Kindly let us know if there are any fees applicable to obtaining a copy of the document being requested – so we can coordinate its prompt payment.

Please contact me at your convenience if you have any questions regarding this matter.

Cordially,



Jerry Lucas Marrero

c: Mr. José C. Font, EPA-CEPD
Mr. Eduardo R. González, EPA-CEPD
Stuart Keith, Esq., EPA
Héctor L. Vélez-Cruz, Esq., EPA-CEPD
Mr. Scott David
Mr. Deny Gómez
Pierre Espejo, Esq.

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 City, State, ZIP+4
 New York NY 10007-1866

PS Form 3800, August 2006

See Reverse for Instructions

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Regional Freedom of Information Officer
 U.S. Environmental Protection Agency
 Region 2
 290 Broadway, 26th Floor
 New York, NY 10007-1866

2. Article Number

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X Jackson

☐ Agent

☐ Addressee

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JACKSON

C. Date of Delivery

FEB 11 2015

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☐ Yes

PS Form 3811, July 2013

Domestic Return Receipt

Fermín E. Fontanés Gómez

From: Fermín E. Fontanés Gómez
Sent: Thursday, April 30, 2015 3:04 PM
To: 'Calderon, Wanda'
Cc: Caballer, Rosana; Font, Jose
Subject: RE: FOIA Request EPA-R2-2015-004230 Submitted

Good afternoon,

As of today, we have still not received a response to the referenced request. The estimated date of completion reported on the website was March 18, 2015. See, <https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d2805bcfae>. We followed up on our request on April 1, 2015. Could you please let me know the current status of the request?

Regards,

Fermín

Fermín E. Fontanés Gómez

O'NEILL & BORGES LLC | American International Plaza | 250 Muñoz Rivera Ave., Ste. 800 | San Juan, P.R. 00918-1813

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From: Calderon, Wanda [mailto:Calderon.Wanda@epa.gov]
Sent: Wednesday, April 01, 2015 1:06 PM
To: Fermín E. Fontanés Gómez
Cc: Caballer, Rosana; Font, Jose
Subject: RE: FOIA Request EPA-R2-2015-004230 Submitted

Hello and good afternoon Mr. Fontanes Gomez,

I am in receipt of your second follow communication and have forwarded the same to our office in Puerto Rico for progress update. I will make this communication part of the official online record for your convenience. I apologize for any inconvenience this may have caused. Thank you!

From: Fermín E. Fontanés Gómez [mailto:fermin.fontanes@oneillborges.com]
Sent: Tuesday, March 31, 2015 5:38 PM
To: Calderon, Wanda
Subject: RE: FOIA Request EPA-R2-2015-004230 Submitted

Good morning,

As of today, we have not received a response to the referenced request. The estimated date of completion reported on the website was March 18, 2014. See,

<https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d2805bcfae>. Could you please let me know the status of the request?

Regards,

Fermin

From: calderon.wanda@epa.gov [mailto:calderon.wanda@epa.gov]

Sent: Monday, February 16, 2015 10:53 AM

To: Fermin E. Fontanés Gómez

Subject: FOIA Request EPA-R2-2015-004230 Submitted

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request information is as follows:

- Tracking Number: EPA-R2-2015-004230
- Requester Name: Fermin Fontanes
- Date Submitted: 02/16/2015
- Request Status: Submitted
- Description: This request is made in furtherance of our letter dated January 29, 2015 requesting a copy of the document titled Environmental Impact Study Investigation for the Modular Incineration System, Weston, 1989 (the "Weston Study"). The Weston Study is referenced in multiple documents and reports provided by the U.S. Environmental Protection Agency ("EPA") on November 13, 2014, in response to Station Managers of Puerto Rico's ("SMPRI") request made pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended by the OPEN Government Act of 2007, Pub. L. No. 110-75.

As stated in SMPRI's request of October 10, 2014, SMPRI received a letter from the Director of the U.S. Environmental Protection Agency, Caribbean Environmental Protection Division ("EPA-CEPD"), indicating that the EPA had determined that it could "not rule out" SMPRI as a potential party for the light non-aqueous phase liquid ("LNAPL") found beneath the Former Shell Guayanilla Fuel Terminal (the "Facility"). The EPA-CEPD recommended that SMPRI submit a Corrective Measures Study or Remedial Action Plan to address the LNAPL in the groundwater.

As a result, via the aforementioned FOIA request, and prior to presenting a formal response to the EPA-CEPD's request, SMPRI requested copy of the files and reports that EPA-CEPD used as a basis for concluding that it could "not rule out" SMPRI a potential responsible party.

It was while reviewing the documents provided by EPA in response to the FOIA request that SMPRI became aware of the Weston Study. Consequently, SMPRI now formally requests, pursuant to FOIA, as amended, a copy of the Weston Study. We understand that, pursuant to 40 C.F.R. Section 2.104, SMPRI ought to receive a copy of the Weston Study within twenty (20) days of receipt of this request. See, also, *NLRB v. Sear, Roebuck & Co.*, 421 U.S. 132 (1975).

Please contact me at your convenience if you have any questions regarding this matter.

Fermin E. Fontanés Gómez

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